



# California Regional Water Quality Control Board

## Santa Ana Region

**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb8>  
3737 Main Street, Suite 500, Riverside, California 92501-3348  
Phone (909) 782-4130 - FAX (909) 781-6288



**Gray Davis**  
Governor

September 29, 2000

Mr. Chris Crompton  
County of Orange  
Public Facilities & Resources Department  
300 N. Flower Street  
Santa Ana, CA 92415-0835

### WASTE DISCHARGE REQUIREMENTS FOR ORANGE COUNTY, AREA-WIDE MUNICIPAL STORM WATER PERMIT, ORDER NO. 96-31, NPDES NO. CAS618030

Dear Mr. Crompton:

On September 1, 2000, we received the NPDES renewal application pertaining to the above-referenced discharge. While the application submitted by the County of Orange has been accepted, it is important to note that the draft Drainage Area Management Plan (DAMP) needs further revision. We are encouraged by the fact that a meeting between County staff and Regional Board staff has been scheduled to discuss issues related to the DAMP and renewal of the Permit. We are hopeful that most of the issues discussed below can be resolved at that time. The DAMP needs to present specific objectives, enforceable goals and commitments, evaluations of current Best Management Practices (BMPs) and proposed new BMPs, and discharge characterization based on existing data.

Therefore, while the Report of Waste Discharge (ROWD) is accepted as the NPDES renewal application, the current draft DAMP will not be used as the foundation of the new permit as staff prepares the revised waste discharge requirements and tentative order for the County of Orange and the incorporated cities. Further, during permit renewal, Order No. 96-31 requires the permittees to provide updated maps showing current land uses and populations as well as the current storm drain systems, outfalls, detention or retention basins or dams, and other controls of the storm drain system with the ROWD[Items 29 (b) &(c)]. Those maps have not been included in the renewal package. Further, recent requests by Regional Board staff for storm drain maps of unincorporated areas in the Newport Coast area have shown that those maps are seriously out of date (more than 8 years). The permittees have until March 1, 2001 to update these maps and submit hard copies and electronic copies to Regional Board staff.

Given the overall lack of specificity, it is difficult to point out all of the deficiencies in the ROWD and DAMP. However, what follows is a general list of observations. It should be noted that the following list is not complete and is presented here to help guide the County if it decides to resubmit a revised DAMP. Please note the following:

***California Environmental Protection Agency***

ROWD - Section 2.0 (Detection/Elimination of Illegal Discharges and Illicit Connections)

Although all of the Permittees have adopted the Water Quality Ordinance and corresponding Enforcement Consistency Guide, there does not appear to be an effective or consistent enforcement policy throughout the county, particularly with regards to non-‘public education’-type enforcement. There is a lack of information regarding the number of water pollution investigations conducted during the past permit period and there appears to be a negligible number of enforcement activities that resulted in administrative fines. There is no evidence that any of the enforcement activity has resulted from observations made during a municipality’s regular inspections, such as code enforcement or hazardous waste storage inspections. Rather, it appears that all enforcement activities are the result of response to citizen complaints. In this case, it is very doubtful that repeat offenders will receive progressive penalties, as there does not appear to be follow-up inspections by the municipalities.

ROWD - Section 3.0 (Status of BMP Implementation)

It is apparent that all permittees are not implementing even the simple BMPs that are currently required by the existing DAMP. For example, three cities apparently do not track solid waste numbers. Three cities did not report the removal of debris from the storm drains and of the 21 cities and county that did report catch basin clean outs, five cities and the county cleaned out less than half of their storm drains. Finally, it should be noted that three cities still, have not stenciled all of their catch basins with the universal “No Dumping – Drains to Ocean”.

Subsection 3.2.9 states that “Careful fertilizer application and management is the most effective means of controlling nutrient loss from landscaped areas”. Yet, 11 cities and the county have not conducted soil compatibility tests to determine optimum fertilizer application rates and 20 cities and the county have not conducted soil compatibility tests for pesticides. Well over 22 tons of various pesticides were applied by the 24 cities and county (many amounts were not reported or were given as application rates, not total amount applied), yet only 4 cities have tested the soils for compatibility.

ROWD – Section 5.0 (Measuring Program Effectiveness)

This section lacks any specificity as to the effectiveness of any general programs or individual BMPs implemented to reduce pollutant loading to the municipal storm drain systems and receiving waters. What is present in this section are various reasons why the municipalities feel they are unable to evaluate BMPs and a list of studies, many conducted by non-municipal entities. Nowhere within this section are any measurements or evaluations of the programs or the BMPs being implemented by the municipalities.

The draft of the DAMP indicates that the majority of the new commitments are studies to be performed over the next five years to evaluate whether current management measures are sufficiently effective. The following examples of noted deficiencies should not be taken as a complete list, but should be used as general guidelines should the permittees choose to revise and resubmit the DAMP:

Section 1.4.3 (Third Term Permit: DAMP Emphasis) states that monitoring will be performed to ensure that BMPs are being correctly applied and are effective, yet throughout the ROWD, the inability of the municipalities to monitor or assess the effectiveness of BMPs is repeatedly stated. This section further states that there would be "... possible adjustment of water quality standards if they are not appropriate." It is not clear from this statement whether the municipalities are intending to conduct Use Attainability Analyses to remove beneficial uses from the Basin Plan or conduct studies to support the setting of Site Specific Objectives for any of the Region's waters. Finally, a review of the 'key performance commitments' listed at the end of the section reveals that most of these commitments consist of evaluations, re-evaluations, and items which should have been completed in the previous ten years of the permit, such as the implementation of a public and business education strategy, the development of formalized training elements, and an evaluation of the need for a Model Erosion Control Ordinance.

Section 3.5 states that the DAMP will be revised and submitted with the ROWD at the end of each permit cycle. The DAMP must be revised as needed. If developments take place over the next 5 years that require a modification to the DAMP, those changes must be made and not left until the expiration of the current permit. The next item lists a cycle by which watersheds within the county will be evaluated to assess the impacts of urban development on water quality. It should be noted that current and future TMDL requirements placed on the permittees as well as unanticipated environmental problems might override that priority cycle. The third item states that the permittees will wait until the California Storm Water Best Management Practices Handbooks are revised before the permittees will assess candidate BMPs for inclusion in the NPDES Storm Water Program. The requirement to assess BMPs and update the permittees NPDES program should have been and should continue to be a continuing process and cannot be postponed indefinitely until the completion of other entity's programs. Finally, it is repeated that the permittees shall "...assess and evaluate the data from site specific BMPs...", a detailed description of the methodologies to be used by the permittees in evaluating BMPs is required given the permittees reported past inability to assess BMP effectiveness.

Section 5.4 lists the new commitments for public agency activities. Again, most of the commitments presented here are things that should have been initiated in the past ten years of the permit including training of public agency staff in the implementation of model maintenance procedures, training public agency staff in pollution prevention, the updating of storm water facility maps, training staff on fertilizer and pesticide usage, or the commitments are evaluations to

determine the need to perform an activity and in all cases, the evaluation results would not be reported until November 2002 or later.

Section 7.4 lists new commitments for developments and significant redevelopment projects and Section 8.7 lists new commitments for construction. Again, the majority of the commitments are either the evaluation of the need to revise the development BMP appendix in the DAMP based on the update of the California Storm Water BMP Manuals or tasks that will only take place if the evaluation results in the need to update that appendix. Clearly, evaluation of the BMP requirements for new development is a major component of the permittees area-wide permit and cannot be delayed until the generation of a document outside the control of the permittees. The evaluation of the effectiveness of currently required BMPs as well as new BMPs must be a continual process and that process should be clear and well-defined given that this is the tenth year of this permit. Additionally, permittees should be actively conducting training sessions for the developers, not just documenting these activities if they happen to take place. It must be recognized that the permittees determine land use designations, approve new developments and redevelopment projects, set local BMP requirements, approve plans, inspect projects during construction and approve certificates of occupancy. The permittees must therefore ensure that these projects do not contribute to violations of water quality standards and the education and oversight of developers operating within a municipality is ultimately the responsibility of the municipality.

Section 9.4 lists the one new commitment for industrial discharger identification and it's an evaluation to determine the feasibility of establishing a mechanism to ensure compliance with the State's Industrial General Permit prior to issuing a business license. As stated, this is similar to the mechanism already in place for construction permits, yet the feasibility study results won't be made available until November 2003.

Section 10.5 lists new commitments for detection/elimination of illegal discharges and illicit connections. Again, most of these commitments are either a commitment to review and revise as necessary existing programs or programs which should have been established during the first two permit cycles, such as the training of industrial inspection staff on storm water quality awareness. Further the 'draft' DAMP states that this training will include information on BMP guidance developed for restaurants, automotive service centers and gasoline stations. While these are important potential sources for pollutant loading, it should be evident that the training should cover all aspects of industrial storm water BMPs and the elimination of unauthorized, non-storm discharges.

Section 12.0 addresses the Newport Bay Watershed with respect to its status as a 303(d) listed "Impaired Waterbody" and the Total Maximum Daily Load (TMDL) process resulting from that designation. It is important to note that implementation of the TMDLs for the Newport Bay

Watershed will require the setting of numeric water quality limits for all discharges to the bay, including storm water and non-storm water discharges (a.k.a. nuisance flows). Also, with regards to other impaired waters for which TMDLs have not been established, Federal regulations prohibit the Regional Board from allowing additional loading of those pollutants responsible for impairment.

Therefore, procedures should be established by the permittees to either require BMPs in new developments and redevelopment projects that will result in pollutant loads equal to current loading or establish a program to enable developers to establish offsets equivalent to the resulting increased load.

As previously stated, the above review is not complete and is intended only to provide direction to the permittees in the event that the permittees decide to resubmit the DAMP. You are reminded that at this time, the DAMP will not be used as the foundation of the new permit as staff prepares the revised waste discharge requirements and tentative order. Order No. 96-31, NPDES No. CAS618030, will expire on March 1, 2001. Revised waste discharge requirements will be developed and a tentative order will be forwarded to you prior to this expiration date. The Report of Waste Discharge, submitted September 1, 2000, as well as any future submittals clarifying issues raised in this letter and in future discussions will be taken into account during the preparation of the revised requirements.

If you have any questions, please contact me at (909) 782-4998.

Sincerely,

**Original signed by Robert Whitaker for Mark E. Smythe**

Mark E. Smythe, Chief  
Storm Water Unit

cc:

U.S. Environmental Protection Agency, Permits Issuance Section - Terry Oda (WTR-5)  
State Water Resources Control Board, Division of Water Quality - James Kassel